



June 27, 2008

Chad L. Whitehead, P.E.
Dufresne & Associates, Consulting Engineers
459 Portland Street, Suite 106
St. Johnsbury, VT 05819

Jurisdictional Opinion #7-262A

RE: Request for Jurisdictional Opinion Received on June 20, 2008
Town of St. Johnsbury Water System Improvements
Act 250 Permit #7C0810 and Amendments

Dear Chad,

Thank you for inquiring about Act 250 permit requirements for the above-referenced project, and for submitting detailed project information via letter and attachments received on June 20, 2008. As requested, I am writing to provide my opinion regarding Act 250 jurisdiction.

Reference is hereby made to your submittal dated June 20, 2008, with attachments, for detailed project information. I note that the project includes items identified in your submittal as 1 through 7 inclusive. As discussed, a portion of the water system improvement project items are minor and/or system maintenance, being items 2, 3, 4, and 6. These items are not a *material change* to the previously permitted (and previously amended) #7C0810 development, pursuant to Natural Resources Board Rule 2(c)(6). I conclude that an Act 250 permit is not required for items 2, 3, 4, and 6.

As discussed, I look forward to reviewing additional information towards providing a jurisdictional opinion (pending #7-262B) for items 1, 5, and 7. I expect that a site visit to these project areas will be helpful, and I note that we currently have a site visit scheduled for Monday July 7, 2008 at 1:00 PM.

Also, for your information, regarding item 7 (Airport Hill Tank), the #7C0432 (Industrial Park) Act 250 permit file shows that a water storage tank existed in this vicinity in 1979, at the time application #7C0432 was submitted. It would be helpful if the Town could provide additional information that may be available regarding the history of item 7, eg date / year of construction, Act 250 permit history if any. The *substantial change* jurisdictional test may apply to the item 7 component of the project, pending further evaluation.

Please feel free to call me if you have any questions, or if you would like our office to issue this determination to other potentially interested persons, pursuant to 10 V.S.A § 6007 (c).

Sincerely

s/s Kirsten Sultan

Kirsten Sultan, P.E., Coordinator

c: District Commission
Mike Welch, Manager, Town of St. Johnsbury

This is a jurisdictional opinion issued pursuant to 10 V.S.A. § 6007(c) and Act 250 Rule 3(A). Reconsideration requests are governed by Act 250 Rule 3(B) and should be directed to the district coordinator at the above address.

Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220. The appellant must attach to the Notice of Appeal the entry fee of \$225.00, payable to the State of Vermont. The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Ctr. Bldg., Drawer 20, Montpelier, VT, 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the VRECP.

For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is: Environmental Court, 2418 Airport Rd., Suite 1, Barre, VT 05641-8701. (Tel. #802-828-1660)._____

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